

Gas station operator fined for spill

[ADAM JENSEN](#) / TAHOE DAILY TRIBUNE,

Operators of the Swiss Mart gas station in South Lake Tahoe were ordered to pay \$222,000 by water quality regulators on Thursday for delays in cleaning up petroleum spills at the Emerald Bay Road service station.

The penalty imposed by the Lahontan Regional Water Quality Control Board on Sarbjit Kang and Kang Property Inc. was slightly less than half the amount recommended by control board staff. But the water board could have imposed a penalty of more than \$4 million under California law.

During a meeting of the water board at Lake Tahoe Community College on Thursday, Scott Brooke — the attorney representing Kang and Kang Property Inc. — called the board's action overly aggressive. But one board member said he thought the \$222,000 penalty didn't go far enough.

Because Kang and Kang Property Inc. have a history of failing to comply with water board orders — they owe \$55,000 from previous board orders — board member James Charlton labeled the pair “scofflaws” worthy of a larger penalty.

“Clearly in the past they just blow us off,” Charlton said Thursday.

Charlton called a \$460,300 penalty recommended by water board staff “just fine.”

“I think we just need to exact the penalty and move on,” Charlton said.

Thursday's penalty stems from a water board order issued in 2008 outlining several measures to clean up gasoline leaks that affected groundwater near the station.

Stipulations in the order included providing an alternate water supply to the users of a well affected by the spills, investigating the source of the petroleum, monitoring the extent of the leakage and cleaning up the spills, according to a complaint associated with the order.

Kang and Kang Property Inc. were between 20 and 259 days late in complying with the various stipulations, according to the complaint.

Swiss Mart — which is no longer owned by Kang Property Inc. but is operated by Kang, according to testimony on Thursday — is currently in compliance with water board regulations.

And — although there has been no active cleanup of the spill that generated Thursday's action — the spill has dispersed to undetectable levels and does not pose a risk to public health or the environment, said Lahontan Engineer Lisa Dernbach.

Since the spills are no longer an environmental hazard and pose no risk to public health, the delays in complying with board's order were the only issue the station should be held responsible for, Brooke contended, calling the recommended penalty excessive.

Although Brooke said reasonable fines would be acceptable, he said Thursday's enforcement actions would send a message that Lahontan is an unreasonable board and cause them to lose respect from those they regulate.

Because the board is required to consider a polluter's ability to pay civil liabilities before imposing them, the number of properties owned by Kang Property Inc. was a matter of much discussion on Thursday.

Although information gathered by the board shows Kang Property Inc. owns several gas stations around the state, Azad Amiri, the president of Kang Property Inc., contended all but one of those properties have either been sold or are in foreclosure.

Under questioning from water board attorney David Boyers, Amiri said he didn't remember the total number of properties Kang Properties has sold in the past five years.

The number of properties recently sold by Kang Property Inc. could indicate the company and Kang's ability to pay the more than \$400,000 penalty recommended by board staff, Boyers said.

Amiri said he sold the Swiss Mart as part of a transaction that included four properties. The Kang Property Inc. president initially declined to tell Boyers the buyer of those properties, but said he didn't sell them to a family member.

Following advice from Brooke, Amiri said he'd sold the properties to Tahoe Blue Property Inc. When asked who was the owner of Tahoe Blue Property Inc., Amiri said he didn't know and had dealt with a "gentleman from England" when selling the properties.

Kang, who said he still leases Swiss Mart, said a \$460,300 fine would put the gas station out of business.

Following the 5-0 vote by the board to impose the \$222,000 penalty, Amiri said he felt the hearing was just a show and said he felt he had fulfilled his civic responsibility and had complied with the board's requests.

But board members said the evasiveness of Kang and Kang Property Inc. throughout the cleanup process was worthy of some sort of penalty.

Kang and Kang Property Inc.'s handling of the cleanup order has been "unprofessional," said board member Mike Dispenza.

And although he said he "didn't like what these individuals have done," Dispenza said that he was satisfied the most critical issue — that petroleum from the station had affected water quality — had been resolved.

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